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**RECEIVED AND RECORDED**

**202212506**  
**JAMES P. MATUSZAK RECORDER**  
**WOOD COUNTY, OH**  
**REC Fee:110.00**

Instrument Number: 202212506

Number of Pages: 10

Recording Date and Time: 9/13/2022 3:56:19PM

I hereby acknowledge that this instrument was RECEIVED  
and RECORDED on the date stamped above in the  
OFFICIAL PUBLIC RECORDS of the RECORDER  
Wood County, Ohio.



A stylized, handwritten signature in black ink, consisting of a large loop followed by a horizontal line.

**James P. Matuszak,**  
Recorder  
Wood County Ohio

**This cover page is PAGE 1 of your document and is part of the Official Public Record.**



NOT NECESSARY FOR TRANSFER  
AT THIS TIME 09-13-2022  
MATTHEW OESTREICH  
WOOD COUNTY AUDITOR

**To be recorded with Deed  
Records - ORC § 317.08**

### **ENVIRONMENTAL COVENANT**

This Environmental Covenant is entered into by Perrysburg Land Holding, LLC ("Owner") and the Ohio Environmental Protection Agency ("Ohio EPA") pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 for the purpose of subjecting the Property described in section 2 herein ("the Property"), to the activity and use limitations set forth herein.

Whereas, The former John A. Biewer Company of Toledo (Biewer Toledo) was a wood treatment facility which used chromated copper arsenate (CCA) to pressure treat lumber at the Property from 1983 to 1997. The F035 listed hazardous waste was managed in the former drip pad area as part of the facility's pressure treating operations. Biewer Toledo discontinued operations in 1997, after which the Property was leased to Toledo Forest Products Inc., a wholesale retail lumber business. Toledo Forest Products brings in large pieces of lumber and cuts them to size for customers and the property is used as a building material distribution facility. No pressure treating activities are conducted on the property since 1997.

Whereas, On July 9, 2004, Ohio EPA determined that Biewer Toledo was also in violation of OAC 3745-69-45 for failure to close the former drip pad (unit).

Whereas, Closure activities completed under a closure plan approved by Ohio EPA on May 3, 2005, had not achieved the closure performance standard contained in the closure plan.

Whereas, In July 2008, Tri-State Forest Products, Inc. purchased Toledo Forest Products, Inc. and retained the lease of the property from Eckel Junction Inc., formerly known as Biewer Toledo.

Whereas, on January 24, 2017, Perrysburg Land Holding, LLC. acquired ownership of the Property from Biewer Toledo and continues to lease the property to Tri-State Forest Products, Inc.

Whereas, Closure sampling activities completed following an amended closure plan that was approved by Ohio EPA on December 1, 2020 determined that a release had occurred from the drip pad unit to underlying environmental media. Hexavalent chromium contamination found in soil and ground water within the unit above background levels necessitated additional sampling activities to determine the nature and extent of the release.



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Whereas, On September 14, 2021, Ohio EPA approved a closure plan modification request for conducting the additional sampling activities. Sample results indicated the extent of the release had been determined.

Whereas, the closure plan was amended to modify the closure performance standard to be based on clean closure under commercial/industrial land use. Data collected from soil and ground water sampling activities necessitates the need to implement appropriate activity and use limitations that restrict land and ground water use restriction across the entire Property to protect human health and the environment and to prevent conditions at the Property from constituting or threatening to cause or contribute to air or water pollution or soil contamination. Excavation or digging activities on a portion of the property described in Exhibit A must be limited to protect human health and ensure proper management of media containing a listed hazardous waste. Ohio EPA approved the amendment on June 1, 2022.

Whereas, the administrative record is maintained as the file titled Toledo Forest Products in the Ohio EPA Northwest District Office, located at 347 N. Dunbridge Road Bowling Green, OH 43402.

Now therefore, Owner and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.

2. Property. This Environmental Covenant concerns an approximately 9.22-acre parcel of real property located at 13010 Eckel Junction Road, Perrysburg, Wood County, Ohio 43551, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein ("Property").

3. Owner. This Property is owned by Perrysburg Land Holding, LLC. ("Owner"), who is located at 13010 Eckel Junction Road, Perrysburg, Ohio 43551.

4. Holder[s]. Pursuant to ORC § 5301.81, the holder of this Environmental Covenant ("Holder") is the Owner listed above.

5. Activity and Use Limitations. As part of the remedial action described in the Closure Plan, Owner hereby imposes and agrees to comply with the following activity and use limitations:

**A. Commercial or Industrial Land Use Limitation.**

The Property shall not be used for Residential Activities but may be used for Commercial Activities or Industrial Activities. The term "Residential Activities" shall include, but not be limited to, the following:

- (1) Single and multi-family dwelling and rental units;
- (2) Day care centers, preschools, and (K-12) educational facilities;
- (3) Correctional facilities;
- (4) Infirm or elderly care facilities;
- (5) Hospitals and other extended care medical facilities;
- (6) Transient or other residential facilities; and
- (7) Production of food-chain products by agricultural means for animal or human consumption.

The term "Commercial Activities" shall include, but not be limited to retail establishments, grocery stores, offices, restaurants, salvage yards, retail gasoline stations, parking facilities, hotels and motels.

The term "Industrial Activities" shall include manufacturing, formulating, repackaging or refining operations; production or processing operations; warehouses; lumberyards; power plants; assembly plants; railroad yards; storage, sales of durable goods and other non-food chain products, and parking/driveway use.

**B. Ground Water Extraction or Use Prohibition.**

Ground water located in the uppermost saturated zone within or upon the Property shall not be used except for investigation, monitoring or remediation purposes.

**C. Excavation Notice Provision.**

Excavation within the portion of the Property described in Exhibit 1 or A shall be prohibited, except: (i) as may be required in furtherance of corrective action activities ordered by any governmental entity with jurisdiction over such matters, or (ii) as may be approved in writing by the Ohio EPA. Notification of excavation activities must be submitted at least ninety (90) days prior to the anticipated date the activities will be performed.

If any event or action by or on behalf of a person who owns an interest in or holds an encumbrance on the Property, identified in paragraph 11 below, constitutes a breach of the activity and use limitations, Owner or Transferee shall notify Ohio EPA within thirty (30) days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within sixty (60) days of becoming aware of the event or action, or such other time frame as may be agreed to by the Owner or Transferee and Ohio EPA.

6. Running with the Land. This Environmental Covenant shall be binding upon



the Owner, during the time that the Owner owns the Property or any portion thereof, and upon all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term “Transferee,” as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party’s right to take action to enforce compliance. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law.

8. Rights of Access. Owner hereby grants to Ohio EPA’s authorized representatives the right of access to the Property for implementation or enforcement of this Environmental Covenant and shall require such access as a condition of any transfer of the Property or any portion thereof.

9. Compliance Reporting. Owner or any Transferee shall annually submit to Ohio EPA before June 1<sup>st</sup> of each year, written documentation, which complies with the requirements of OAC rule 3745-50-42(B)-(D), verifying that the activity and use limitations set forth herein remain in place and are being complied with in accordance with this Environmental Covenant.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED\_\_\_\_\_, 20\_\_\_\_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE COUNTY RECORDER ON \_\_\_\_\_, 20\_\_\_\_, IN [DOCUMENT \_\_\_\_\_, or BOOK\_\_\_\_, PAGE \_\_\_\_]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

Owner or Transferee, if applicable, shall notify Ohio EPA within ten (10) days after each conveyance of an interest in the Property or any portion thereof. The notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other



documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property and that the Owner conducted a current title search that shows that the Property is not subject to any interests or encumbrances that conflict with the activity and use limitations set forth in this Environmental Covenant;
- C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected;
- E. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner or a Transferee, if applicable; and the Director of the Ohio EPA, pursuant to ORC § 5308.82 and 5301.90 and other applicable law. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA and the Owner or Transferee of the Property or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner or Transferee shall file such instrument for recording with the County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA.

13. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

15. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the County Recorder's Office.

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the County Recorder.

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to Ohio EPA.

18. Notice. Unless otherwise notified in writing by or on behalf of the current owner or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

As to Ohio EPA:

Division of Environmental Response and Revitalization  
Ohio EPA – Central Office  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
PO Box 1049  
Columbus, Ohio 43216-1049  
Attn: DERR Records Management Officer

Or, send electronically to: [records@epa.state.oh.us](mailto:records@epa.state.oh.us)

And

Ohio EPA – Northwest District Office  
347 N. Dunbridge Road  
Bowling Green, OH 43402  
Attn: DERR Site Coordinator for Perrysburg Land Holding, LLC

As to Owner:

Robert A. Latham

Perrysburg Land Holding, LLC  
13010 Eckel Junction Road  
Perrysburg, OH 43551

The undersigned represents and certifies that the undersigned is authorized to execute this Environmental Covenant.

**IT IS SO AGREED:**

**Perrysburg Land Holding, LLC.**

Robert A Latham

Signature of Owner

Robert A Latham

Robert A. Latham, Managing Member

7/28/2022

Date

State of Ohio )

County of Wood )

ss:

Before me, a notary public, in and for said county and state, personally appeared Robert A. Latham, a duly authorized representative of Perrysburg Land Holding, LLC, who acknowledged to me that he did execute the foregoing instrument on behalf of said limited liability company.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 28<sup>th</sup> day of July, 2022.

J. Douglas Ruck  
Notary Public



**J. DOUGLAS RUCK, Attorney-at-Law**  
Notary Public, State of Ohio  
My Commission has no expiration date  
Section 147.03 R.C.



OHIO ENVIRONMENTAL PROTECTION AGENCY

Laurie A. Stevenson  
Laurie A. Stevenson, Director

5/1/22  
Date

State of Ohio            )  
                                  )  
County of Franklin    )       ss:

Before me, a notary public, in and for said county and state, personally appeared Laurie A. Stevenson, the Director of Ohio EPA, who acknowledged to me that she did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 1<sup>st</sup> day of Sept., 2022.



Charma Diane Casteel  
Notary Public

CHARMA DIANE CASTEEL  
NOTARY PUBLIC  
STATE OF OHIO  
MY COMMISSION EXPIRES

May 10, 2024

This instrument prepared by:

Sarah M. Miles  
Staff Attorney, Office of Legal Services, Ohio EPA  
50 West Town Street  
Columbus, OH 43215

1. I, Notary Public, Charma Diane Casteel, do hereby certify that the foregoing instrument was executed by Laurie A. Stevenson, Director of Ohio EPA, on the date and at the place stated above.



## **EXHIBIT A**

A parcel of land in River Tract 66, Town 1, United States Reserve in Perrysburg Township, Wood County, Ohio, which is bounded and described as follows:

Beginning at the Southeast corner of said River Tract 66;

Thence Westerly along the Southerly line of said River Tract 66, a distance of 300.00 feet to a point;

Thence Northerly along a line that is 300.00 feet, by rectangular measurement, Westerly of and parallel to the East line of said River Tract 66, a distance of 1076.27 feet, more or less, to its intersection with the southeasterly right of way line of the Baltimore and Ohio Railroad Company (formerly the Cincinnati, Hamilton, Dayton Railroad Company);

Thence Northeasterly along the said Southeasterly right of way line of the Baltimore and Ohio Railroad Company, a distance of 602.53 feet, more or less, to its intersection with the Easterly line of said River Tract 66;

Thence Southerly along the Easterly line of said River Tract 66, a distance of 1600.83 feet, more or less, to the point of beginning.

Containing 9.22 acres of land, more or less.

Auditors Parcel No. Q61-100-654406005000